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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/737,060	12/16/2003	Thomas J. Dinger	LOT920030029US1 (014)	5227
46321 7590 08/06/2008 CAREY, RODRIGUEZ, GREENBERG & PAUL, LLP STEVEN M. GREENBERG 950 PENINSULA CORPORATE CIRCLE SUITE 3020 BOCA RATON, FL 33487				
			EXAMINER	
			HU, KANG	
			ART UNIT	PAPER NUMBER
			3714	
			MAIL DATE	DELIVERY MODE
			08/06/2008 PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/737,060

**Applicant(s)**

DINGER ET AL.

**Examiner**

KANG HU

**Art Unit**

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 May 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-19 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 16 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-8508)  
4) ☐ Interview Summary (PTO-413)  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_  
Paper No(s)/Mail Date \_\_\_\_\_

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114 was filed in this application after appeal to the Board of Patent Appeals and Interferences, but prior to a decision on the appeal. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 5/27/2008 has been entered.

### ***Specification***

2. The amendment filed 8/31/2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: applicant has amended the abstract to recite "the learning folders can be separate from an existing course catalog of learning objects". The examiner fails to see the support in the specification.

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Re claims 1, 9 and 17 each recite claim language "the learning folder comprising a configuration to aggregate access to existing learning objects from a separate course catalog" (claims 1 and 9) and "each of the learning folders aggregating selected ones of the learning objects separate and apart from an existing course catalog of learning objects". The examiner fails to find any support in the specification for a "separate course catalog" and "learning objects separate and apart from an existing course catalog of learning objects." The applicant is required to point out the support for such features or cancel such features from the claim language. The dependent claims are also rejected for their dependency upon claims 1, 9 and 17.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Alcorn et al. (US 6,988,138 B1).

Alcorn teaches the claim as best understood by the examiner, a method of administering learning objects within a learning management system, comprising the step of: establishing within a computing system a learning folder for a particular learner in the learning management system (LMS) which is separate from an existing course catalog of learning objects (col 5, lines 15-25; system for providing to a community of users access to online courses, including a server computer in communication with user computers over a network, wherein the server computer has means for creating course user accounts from a file of existing user accounts associated with an external computer), the learning folder comprising a configuration to aggregate access to existing learning objects from a separate course catalog (col 2, lines 40-65; aggregation of information contained in existing networks are provided from the institution's perspective... a student may have to log-on to multiple networks in order to access different items of data... existing system, in short, aggregate course information in an institution-centric manner); adding within the computing system one or more of the learning objects to the learning folder, and, initially limiting access to the learning folder within the computing system to the particular learner (col 4, lines 19-52; student user is provided with an access level to enable reading of course files associated with a course. The student user is also provided with an access level to enable modification of some of the files associated with a course, also, the user may be provided with an access level to enable creation of a student file associated with a file for which the student user is able to read; col 17, line 40 – col 22, line 19).

Alcorn further teaches:

Re claim 2, establishing a learning link for the learning folder, which provides access to the learning folder for one or more additional learners (col 4, line 52 - col 5, line 15).

Re claim 3 and 4, modifying the learning folder by adding one or more additional learning objects to the learning folder and modifying the learning folder by removing one or more learning objects from the learning folder (col 6, lines 10-22; col 17, line 40 – col 18, line 37).

Re claim 5 and 6, modifying the learning link by adding access for one or more learners, modifying the learning link by removing access for one or more learners (col 21, line 65- col 22, line 18).

Re claim 7 and 8, removing a learning folder and learning link from the learning management system (col 17, line 40 – col 18, line 37).

Re claims 9-19, the features of the machine readable storage and learning management system have been discussed above in claims 1-8 and will not be repeated herein.

***Response to Arguments***

7. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bagley et al. (US 2005/0102322 A1) teaches of a mechanism that provides automation in creation of learning objects from knowledge and learning content in various format.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KANG HU whose telephone number is (571)270-1344. The examiner can normally be reached on 8-5 (Mon-Thu).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert E Pezzuto/  
Supervisory Patent Examiner, Art Unit 3714

/Kang Hu/  
Examiner, Art Unit 3714